

**IN THE COUNTY COURT OF THE FIFTEENTH JUDICIAL  
CIRCUIT, CRIMINAL DIVISION, IN AND FOR PALM BEACH  
COUNTY, FLORIDA**

State of Florida,  
*Plaintiff,*

vs.

Bethany Fedorenchik,  
*Defendant.*

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Case Number: 2019-MM-003721-AXXX-MB  
DIVISION: DVTD

**VICTIM NICOLE GUERRIERO'S RESPONSE TO MOTION TO STRIKE  
MOTION FOR RETURN OF PERSONAL PROPERTY**

COMES NOW the VICTIM, Nicole Guerriero, in the above-captioned case and files this response to the Motion to Strike Motion For Return For Personal Property. The VICTIM, Nicole Guerriero states as follows:

1. In her Motion to Strike, Ms. King refers to Nicole Guerriero as a Non-Party and a witness, this is a clear misrepresentation. Ms. Guerriero is the ***STALKING VICTIM*** in the above-captioned case, as noted in the Information that specifically states, "***BETHANY FEDORENCHIK.....did willfully, maliciously, and repeatedly follow, harass, or cyberstalk NICOLE LT GUERRIERO, contrary to Florida Statute 784.048(2).***" Ms. Guerriero, who is acting Pro Se, is an interested party and it is within her right to file a motion requesting her property be released and returned.
2. The Delray Beach Police Department has in their possession a thumb-drive that contains personal, private & privileged text messages/information that was retained without the VICTIM, Nicole Guerriero's knowledge or consent. This is the item the VICTIM, Nicole Guerriero is requesting to be released and returned.
3. On May 24, 2019, the State Attorney filed a Nolle Prose in this case and sent a disposition letter to the Delray Beach Police Department indicating the case was closed and advising the Evidence custodian that the items retained were no longer needed.
4. Ms. King claims the thumb-drive is the subject of a Chapter 119 request made to the Delray Beach Police Department, however according to the City of Delray Beach this request has been closed and Ms. King was advised that the thumb-drive did not fall under Chapter 119 and would not be provided. So although the thumb-drive ***WAS*** the subject of a Chapter 119 request, Ms. King misrepresented the status of this request as being active when in fact it has been closed. Furthermore, it should be noted that Ms. King was advised that the thumb-drive would not be produced over 40 days ago and there has been no further action by Ms. King.

5. Ms. King leads the Court to believe that the VICTIM, Nicole Guerriero was being deceptive by not coordinating dates with all parties and communicating with such to obtain their respective position on the motion prior to scheduling the second hearing. Contrary to Ms. King's belief, the VICTIM, Nicole Guerriero was advised by the Judicial Assistant to merely file a Notice of Hearing and provide to all the parties, which is what occurred. At no time was the VICTIM, Nicole Guerriero, who is acting Pro Se, instructed to communicate with the parties and seek their position on the motion or coordinate dates. Moreover, the instructions found on the DV Divisional Instructions web page provides that the motion must be sent to the JA prior to contacting them for a hearing date and that "a copy of the motion and notice of hearing must be provided to the opposing party immediately." Nowhere are there instructions advising communication with the parties or coordinating dates is mandatory prior to scheduling a hearing.

6. The VICTIM, Nicole Guerriero, is requesting the Court to proceed with the Hearing on the Motion to Return Personal Property as filed. As proven in the above, the property is in the possession of the Delray Beach Police Department, NOT the Defendant, thus the issue raised in the motion lies between the Delray Beach Police Department and Ms. Guerriero. As such, the VICTIM in this closed case, Ms. Guerriero's attempt to obtain her personal property should not be hindered by Ms. King's unavailability.

WHEREFORE the victim, Nicole Guerriero, respectfully requests this Court to DENY the Defendant's Motion to Strike and allow the Motion to Return Personal Property to proceed on August 5, 2019.

I do certify that a copy hereof has been furnished to Lynn Gelin, Esq., City of Delray Beach Attorney, LaWonda Warren, Esq., Assistant City Attorney/Police Legal Advisor, Nellie King, Esq., Fatima Bachemin, Esq., by electronic mail on this 23rd day of July 2019.

Respectfully submitted,

By: /s/ Nicole Guerriero  
Nicole Guerriero  
Nikoli788@aol.com